

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

PERSONAL AUDIO, LLC

v.

CBS CORPORATION

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Case No. 2:13-CV-270-JRG-RSP


**ORDER**

Currently before the Court is the Report and Recommendation filed by Magistrate Judge Payne on March 11, 2014 (Dkt. No. 39) regarding Personal Audio's Motion to Dismiss Defendant CBS Corporation's ("CBS") affirmative defenses and counterclaims for failure to state a claim upon which relief can be granted (Dkt. 15, filed July 22, 2013, referred to herein as the "Motion"). No objections having been filed and for the reasons set forth in the Court's Report and Recommendation, the Recommendation is adopted. Accordingly,

IT IS ORDERED that Personal Audio's Motion to Dismiss Defendant CBS's affirmative defenses and counterclaims for failure to state a claim upon which relief can be granted (Dkt. 15) is **GRANTED IN PART** as to CBS's Seventh Affirmative Defense, and **DENIED** as to the remainder.

**So Ordered and Signed on this**

**Mar 31, 2014**

  
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RODNEY GILSTRAP  
UNITED STATES DISTRICT JUDGE